

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KENNETH ROSSITER,

Plaintiff,

v.

CITY OF PHILADELPHIA and CHARLES
H. RAMSEY,

Defendants.

CIVIL ACTION
NO. 13-3429

ORDER

AND NOW, this 17th day of March 2014, upon consideration of Defendants' Motion to Dismiss for Failure to State a Claim (Doc. No. 4), Plaintiff's Response in Opposition (Doc No. 5), Defendants' Reply (Doc. No. 6), the arguments of counsel at the hearing on the Motion held on October 22, 2013, and the parties' supplemental briefs (Doc. Nos. 10, 11), it is **ORDERED** that Defendants' Motion to Dismiss for Failure to State a Claim (Doc. No. 4) is **GRANTED IN PART AND DENIED IN PART** as follows:

1. Plaintiff's procedural due process claim as alleged in Count I is **DISMISSED**.
2. Plaintiff's "stigma-plus" claim as alleged in Count I is **DISMISSED**.
3. Plaintiff's retaliation claim in violation of his First Amendment rights based on his public statement to the press as alleged in Count I is **DISMISSED**.
4. Plaintiff's retaliation claim in violation of his First Amendment rights based on his association with the FOP as alleged in Count I will not be dismissed and will proceed to discovery.

5. Plaintiff's municipal liability claim against the City of Philadelphia as alleged in Count II is **DISMISSED**.
6. Defendant is directed to file an Answer to the remaining claim in Count I within twenty days from the date of this Order.

BY THE COURT:

/s/ Joel H. Slomsky
JOEL H. SLOMSKY, J.